BOOK REVIEWS

THE GOVERNMENT OF THE BRITISH EMPIRE. By Edward Jenks. Boston: Little, Brown and Company. 1918. pp. viii, 369.

The title of this book arouses hopes which are not realized. There is very little about the British Empire or even the British Isles, outside England. For example, English local government receives forty-seven pages, Scotch two, Irish one-half, colonial seven. English education fills ten pages, with no mention of the outlying regions. A purely provincial topic like church history before the Reformation gets nine pages. On the other hand, one can learn nothing here about such vital colonial matters as the right of a British subject, *e. g.*, a Hindoo, to possess full citizenship everywhere in the Empire; the legal status of the blacks in South Africa; the inclusion of natives upon Indian councils; the unfortified frontier of Canada; colonial demands to share in Imperial foreign policy; the Australian Monroe doctrine; the veto power of colonial governors and their liability to civil action for official misconduct; the relations of the various federal governments to their states or provinces. Under this last head we should like to read of the problem of *McCulloch* v. *Maryland* in Australia; the inability of the Privy Council to review Australian decisions on constitutional law unless allowed to do so by the Australian High Court; or the extent to which the Canadian government exercises its veto power over provincial legislation. Much is said of English political parties, nothing of the French Canadian Nationalists, the Labor party in Australia, or Sinn Fein. Out of thirty-eight pages on courts, only half a page is devoted to industrial tribunals in the Dominions.

Yet the book is valuable as a storehouse of information about English government, gathered with much effort to secure accuracy and to include the most recent developments, of which it would be very inconvenient to learn elsewhere. For example, the terms of the 1917 franchise act are given with considerable fulness. This is the book to answer those troublesome questions which continually recur to the casual reader of English political novels and articles. What does the Lord Privy Seal do? How is a budget introduced? What is the function of the various English courts, ancient and modern?

There are occasional interesting discussions of constitutional and political principles. For example, it is questioned whether the old two-party system unfits the House of Commons for a proper handling of the problems of Empire. "Secret diplomacy" is felt to be necessary in a modified form. "Crises which, if handled confidentially, can be discreetly averted, are apt to become distinctly more unmanageable when they are discussed in public with the aid of an excited Press, bent on arousing the passions of its readers." The sanest proposition, in Mr. Jenks' opinion, is a joint legislative committee on foreign relations, to which all international negotiations should be continually reported. (This frequent use of fear of the press as a check on popular control of government will perhaps one day suggest the treatment of newspapers as educational institutions instead of money-making enterprises.)

There are some features of the English Constitution, when spread out in its details, which transport us into the realms of Gilbert and Sullivan. Chapter I is devoted to "The King-Emperor," who "stands at the head of the British Empire," and to his extensive powers over army, police, courts, legislation, foreign policy. But the last paragraph warns us against the natural impression "that the British Empire is an autocracy." All that has gone before is only make-believe, and the King-Emperor does not really rule the lives of his subjects by his personal likes and dislikes. Chapter II, "The Constitutional Monarchy," will make him safe for democracy. The curious outsider who wonders why this official exists at all is told of the immense "influence of the

Royal Family in matters of religion, morality, benevolence, fashion, and even in art and literature." Passages in "Joan and Peter" spring to mind, and Max Beerbohm's cartoon of "Mr. Tennyson reading 'In Memoriam' to his Queen." And besides, says Mr. Jenks, "it is possible that the majority of the people, even of the United Kingdom, . . . believe that the government of the Empire is carried on by the King personally." In other words, if he did not exist, it would be necessary to invent him.

It is suggested that the King-Emperor has three true political rights. The first is, to be informed by a daily letter from the Prime Minister of the public proceedings of Parliament and the secret discussions in the Cabinet. It is clear that this right has no effect in making the sovereign indispensable; if he were abolished, nobody would need the information and the Prime Minister's time would be freer. The second right is, to warn his minister privately out of the lessons of his political experience, which is continuous unlike theirs. The value of this right depends upon the certainty that the King-Emperor will be a man of political sagacity; is inheritance the best method to secure that result? The third right is, to refuse to act on the advice of his ministers in certain rare cases. Thus he can refuse to appoint an unworthy man to office or to swamp the House of Lords with newly created peers. Mr. Jenks also thinks that he can refuse to dissolve Parliament under certain circumstances, but the citation of precedents is needed on this point. A possible fourth right is not mentioned, that of deciding between two candidates from the majority party for the office of Prime Minister. On the whole, the case for continuing the monarchy in England, as presented in this book, does not appear strong.

The book is as full of survivals and exceptions as a Latin grammar. Crown colonies are under the Colonial office, but Ascension Island is under the Admiralty. The inferior clergy are still summoned to Parliament, but they never come. Indeed, an Anglican or Roman Catholic clergyman cannot sit in the House of Commons, but he can sit in the House of Lords if he happens to be a peer, while the more fortunate Methodist minister can sit anywhere. English peers belong to the House of Lords as a matter of course. Scotch and Irish peers elect some of their number to represent them there. The unlucky Scotch lord who loses the election can not even run for the House of Commons, but an Irish peer can. Every exercise of the royal authority until recently was required by statute to have three seals before the Great Seal, each imposed by a separate official, who should be entitled to charge a fee for his share in the process. "A cynical observer might say that the last provision afforded the most powerful guarantee that the statute would be obeyed." A member of Parliament can not resign, but gets appointed Bailiff of the Three Hundreds of Chiltern, and automatically ceases to be a member; then he resigns as Bailiff. County courts have nothing to do with counties. The Archbishop of Canterbury is a member of the Board of Trade. He is Primate of All England, while his brother of York is only Primate of England. When a bishop dies, the cathedral chapter receives a letter from the Crown giving them leave to elect his successor. Unfortunately for the chapter a second letter follows close, containing the name of A, the Crown candidate. It is true that B's name is also added in this letter, to keep up the appearance of a free choice. But if the chapter elected B, they would be punished with all the terrors of a præmunire.

All these provisions of the British Constitution seem like papers stuck into pigeonholes at random, with the hope of systematic filing, on a day that never comes. But let us be humble, and think of the electoral college. What should we do if Democratic electors voted for the Republican candidate?

We may mention some discussions of minor details which interest an American reader:

(1) The Canadian government pays the Leader of the Opposition a salary

out of the national revenue, because of the value to the county of systematic independent criticism. (2) Under the budget system, proposals for the expenditure of money can come only from the Administration; River and Harbor Bills are impossible. (3) When higher customs duties are proposed, no opportunity is given to importers to remove goods from bond before the taxes are enacted; the higher rate is levied at once, and if the proposed increase does not become law the excess is repaid to the importers. (4) The Postmaster-general, although a business rather than a political official, is necessarily a member of Parliament, because "persistent questions in Parliament are one of the best means of bringing about reforms in a department which, by the very nature of its business, tends towards routine." Over there he must explain if he abandons pneumatic tubes because they do not pay, and then institutes an aërial mail service. (5) Each University in the United Kingdom is now represented in Parliament, and a college graduate can vote for a University member as well as for his local member. This use of an occupational as well as a geographical basis for representation is capable of wide extension. Trades-unions, bar associations, medical societies, railroad presidents, might each choose members of Congress. (6) Certain sinecure offices exist in the Cabinet, to which it is usual to appoint men whose advice is desired but who do not wish to undertake definite departmental work. We need an office like the Chancellor of the Duchy of Lancaster for Colonel House.

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DISCUSSION OF PROPOSED AMENDMENT OF JUDICIARY ARTICLES OF CONSTITUTION OF TEXAS. Printed under direction of a resolution of the Texas State Bar Association. 1918. pp. 151.

The judicial organization of Texas, like that of many of our states, is very complicated. It includes the Supreme Court, Courts of Civil Appeals, Court of Criminal Appeals, District Courts, County Courts, Juvènile Courts, Criminal District Courts, Commissioners' Courts and Justices' Courts. The machine is cumbersome; and it is not strange that it takes years to carry a case through to a final decision. The Supreme Court of Texas is now several years — four or five years — behind in its decisions. Certainly if justice is not denied, it is long delayed. For several years the question of reorganizing the courts of Texas has been agitated in that state. The reports of the State Bar Association are full of excellent suggestions, which have never been adopted. A thoroughgoing scheme of reorganization was presented at the meeting of the State Bar Association in July, 1918. The recently published "Discussion of Proposed Amendment of Judiciary Articles of Constitution of Texas" is a practical contribution to the subject of judicial reorganization. In each state the problem is of course somewhat different in its details, but in its essence it is the same all over the country. The solution lies in the direction of simplicity and of flexibility of organization; and the proposed amendment in Texas seems well adapted to reaching this solution.

There is always a difficulty in effecting a thoroughgoing reorganization. One difficulty is sometimes found in the vested interest of the existing incumbents of the judicial office. Any difficulty of this sort seems to be met in the proposed plan in Texas by taking care of the present judges and by increasing the emoluments and the dignity of the judicial office. It is sometimes thought by the man in the street that the lawyers also have a vested interest in retaining an organization and method which result in large business for the lawyers. In truth, as is suggested in the "Discussion," "the rightful compensation of lawyers is enormously decreased, their labors increased, and the scope of their useful activities limited by the intolerable expense, com-